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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/646,553	09/19/2000	Michel Gillet	BEIERDORF 65	1497

7055 7590 07/20/2007  
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EXAMINER
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SIMONE, CATHERINE A

ART UNIT	PAPER NUMBER
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1772

NOTIFICATION DATE	DELIVERY MODE
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07/20/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/646,553	GILLET ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Catherine Simone	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 30-36 and 38-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30-36 and 38-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Withdrawn Rejections***

1. The 35 U.S.C. 103(a) rejection of claims 30, 31, 32 and 39 over Murayama et al. in view of McFarren and in view of Trounstine et al. of record in the previous Office Action mailed 2/8/2007, Pages 4-5, Paragraph #10 has been withdrawn due to the Applicant's amendment filed 5/4/2007.
2. The 35 U.S.C. 103(a) rejection of claims 33, 34 and 36 over Murayama et al. in view of McFarren and in view of Trounstine et al. and further in view of Haffner et al. of record in the previous Office Action mailed 2/8/2007, Pages 5-6, Paragraph #11 has been withdrawn due to the Applicant's amendment filed 5/4/2007.
3. The 35 U.S.C. 103(a) rejection of claims 35 and 38 over Murayama et al. in view of McFarren and in view of Trounstine et al. and further in view of Morman et al. of record in the previous Office Action mailed 2/8/2007, Pages 6-7, Paragraph #12 has been withdrawn due to the Applicant's amendment filed 5/4/2007.
4. The 35 U.S.C. 103(a) rejection of claims 40, 41, 43 and 44 over Murayama et al. in view of McFarren and in view of Morman et al. of record in the previous Office Action mailed 2/8/2007, Pages 7-9, Paragraph #13 has been withdrawn due to the Applicant's amendment filed 5/4/2007.
5. The 35 U.S.C. 103(a) rejection of claims 42, 45 and 46 over Murayama et al. in view of McFarren and in view of Morman et al. and further in view of Haffner et al. of record in the

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previous Office Action mailed 2/8/2007, Pages 9-10, Paragraph #14 has been withdrawn due to the Applicant's amendment filed 5/4/2007.

6. The 35 U.S.C. 103(a) rejection of claim 47 over Murayama et al. in view of McFarren and in view of Morman et al. and further in view of Trounstine et al. of record in the previous Office Action mailed 2/8/2007, Pages 10-11, Paragraph #15 has been withdrawn due to the Applicant's amendment filed 5/4/2007.

7. The 35 U.S.C. 103(a) rejection of claims 48 and 49 over Murayama et al. in view of McFarren and in view of Morman et al. and further in view of Wu of record in the previous Office Action mailed 2/8/2007, Pages 11-12, Paragraph #16 has been withdrawn due to the Applicant's amendment filed 5/4/2007.

8. The 35 U.S.C. 103(a) rejection of claims 50, 51, 52 and 54 over Murayama et al. in view of McFarren and in view of Trounstine et al. and in view of Morman et al. of record in the previous Office Action mailed 2/8/2007, Pages 12-15, Paragraph #17 has been withdrawn due to the Applicant's amendment filed 5/4/2007.

9. The 35 U.S.C. 103(a) rejection of claim 53 over Murayama et al. in view of McFarren and in view of Trounstine et al. and in view of Morman et al. and further in view of Haffner et al. of record in the previous Office Action mailed 2/8/2007, Pages 15-16, Paragraph #18 has been withdrawn due to the Applicant's amendment filed 5/4/2007.

10. The 35 U.S.C. 103(a) rejection of claim 55 over Murayama et al. in view of McFarren and in view of Trounstine et al. and in view of Morman et al. and further in view of Wu of record in the previous Office Action mailed 2/8/2007, Page 16, Paragraph #19 has been withdrawn due to the Applicant's amendment filed 5/4/2007.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 30, 31, 32 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murayama et al. (US 5,633,070) in view of Smith et al. (GB 2 186 233 A) and in view of Feret (US 5,012,801).

Regarding claims 30 and 39, Murayama et al. disclose an elastic laminate comprising a first layer of an elastic polymer film and a second layer of an elastic textile sheet, built from elastic fibers, and the second layer carries a self-adhesive coating on a side which is opposite to a side which faces the first layer (see col. 8, lines 1-9 and lines 30-34).

However, Murayama et al. fail to disclose the textile sheet being macroembossed and the polymer film being microembossed and a macroembossed effect being transferred from the elastic textile sheet to the microembossed polymer film.

Smith et al. teach that it is well known in the art to macroemboss (page 4, lines 58-64) a textile sheet (non-woven fabric) and a polymer film for the purpose of bonding the film to the non-woven fabric to form a laminate for use in a bandage and provide a continuous pattern of embossing on the laminate (page 1, lines 61-64 and page 2, lines 21-23 and page 51-64).

Smith et al. and Murayama et al. are analogous, since both teach a laminate including a non-woven fabric and a polymer film for use in bandages.

Feret teaches that it is well known in the art to microemboss the polymer film of a wound dressing (col. 3, lines 16-21) for the purpose of giving the visual appearance of a plain woven taffeta fabric (col. 3, lines 16-17) and enhance the conformability of the film on irregular surfaces and reduce the tendency of the film to curl or roll up in use and provide a reduced surface contact area (col. 2, lines 21-30).

Feret and Murayama et al. are analogous, since both teach bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the laminate in Murayama et al. to have the textile sheet (non-woven fabric) and the polymer film macroembossed as suggested by Smith et al. in order to bond the film to the non-woven fabric to form the laminate and provide a continuous pattern of embossing on the laminate. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the polymer film in Murayama et al. to be microembossed as suggested by Feret in order to give the visual appearance of a plain woven taffeta fabric, enhance the conformability of the film on irregular surfaces and reduce the tendency of the film to curl or roll up in use and provide a reduced surface contact area.

Regarding claim 31, note in Murayama et al. the polymer film comprises an outer layer and an inner tie layer, the inner tie layer being in direct contact with the second layer (see col. 2, lines 64-65).

Regarding claim 32, note in Murayama et al. that the inner and outer layers can be extruded (see col. 2, line 62). Furthermore, it is to be pointed out that the limitation "coextruded"

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in claim 32 is a method of production and the method of forming the product is not germane to the issue of patentability of the product itself. See MPEP 2113.

13. Claims 33, 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 30 above, and further in view of Haffner et al. (US 6,045,900).

As shown above, Murayama et al., Smith et al. and Feret teach the elastic laminate as claimed in claim 30. In regards to claims 33 and 34, Murayama et al. also teach the textile sheet having an area weight of from 25 to 200 g/m<sup>2</sup> and from 30 to 100 g/m<sup>2</sup> (see col. 2, lines 37-38).

However, Murayama et al. fail to teach the polymer film having an area weight of from 15 to 150 g/m<sup>2</sup> and from 35 to 60 g/m<sup>2</sup> and including at least 65% of a thermoplastic elastomer.

Haffner et al. teach that it is well known in the art to have a polymer film of an elastic laminate having an area weight of from 15 to 150 g/m<sup>2</sup> and from 35 to 60 g/m<sup>2</sup> (see col. 10, line 59-64) and including at least 65% of a thermoplastic elastomer (see col. 9, lines 5-7) for the purpose of providing a breathable barrier laminate which exhibits good breathability and barrier properties (see col. 2, lines 42-45).

Murayama et al. and Haffner et al. are analogous, since both teach an elastic laminate which can be used for bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the polymer film of the elastic laminate in Murayama et al. to have an area weight of from 15 to 150 g/m<sup>2</sup> and from 35 to 60 g/m<sup>2</sup> and include at least 65% of a thermoplastic elastomer as suggested by Haffner et al. in order to provide a breathable barrier laminate exhibiting good breathability and barrier properties.

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14. Claims 35 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 30 above, and further in view of Morman et al. (US 5,932,497).

As shown above, Murayama et al., Smith et al. and Feret teach the elastic laminate as claimed in claim 30. However, Murayama et al. fail to disclose the polymer film including a copolymer of ethylene and a C<sub>4</sub>-C<sub>10</sub>  $\alpha$ -olefin having a melt index of from 1 to 20 g/(10 min) and a density of from 860 to 900 kg/m<sup>3</sup>, and the polymer film comprising a copolymer of ethylene and polar comonomers prepared by a metallocene-catalyzed process.

Morman et al. teach that it is well known in the art to have a polymer film of an elastic laminate comprising a copolymer of ethylene and a C<sub>4</sub>-C<sub>10</sub>  $\alpha$ -olefin having a melt index of from 1 to 20 g/(10 min) and a density of from 860 to 900 kg/m<sup>3</sup> (see col. 5, lines 43-60) and including a copolymer of ethylene and polar comonomers prepared by a metallocene-catalyzed process (see col. 5, lines 43-51) for the purpose of providing the laminate with a soft outer cover and good elastic and breathability properties (see col. 3, lines 19-20).

Morman et al. and Murayama et al. are analogous, since both teach an elastic laminate which can be used for bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the polymer film of the laminate in Murayama et al. to have a melt index of from 1 to 20 g/(10 min) and a density of from 860 to 900 kg/m<sup>3</sup> and include a copolymer of ethylene and a C<sub>4</sub>-C<sub>10</sub>  $\alpha$ -olefin and include a copolymer of ethylene and polar comonomers prepared by a metallocene-catalyzed process as suggested by Morman et al. in order to provide a laminate with a soft outer cover and having good elastic and breathability properties.



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15. Claims 40, 41, 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murayama et al. (US 5,633,070) in view of Smith et al. (GB 2 186 233 A) and in view of Morman et al. (US 5,932,497).

Regarding claims 40 and 41, Murayama et al. disclose an elastic laminate comprising a first layer of an elastic polymer film and a second layer of an elastic textile sheet, built from elastic fibers, and the second layer carries a self-adhesive coating on a side which is opposite to a side which faces the first layer (see col. 8, lines 1-9 and lines 30-34).

However, Murayama et al. fail to disclose the elastic textile sheet being macroembossed. Additionally, although Murayama et al. disclose the polymer film to include a thermoplastic polyolefin (see col. 2, lines 57-58), Murayama et al. fail to disclose the thermoplastic polyolefin having a melt index of from 1 to 20 g/(10 min) and a density of from 860 to 900 kg/m<sup>3</sup> and includes a copolymer of ethylene and a C<sub>4</sub>-C<sub>10</sub>  $\alpha$ -olefin.

Smith et al. teach that it is well known in the art to macroemboss (page 4, lines 58-64) a textile sheet (non-woven fabric) and a polymer film for the purpose of bonding the film to the non-woven fabric to form a laminate for use in a bandage and provide a continuous pattern of embossing on the laminate (page 1, lines 61-64 and page 2, lines 21-23 and page 51-64).

Smith et al. and Murayama et al. are analogous, since both teach a laminate including a non-woven fabric and a polymer film for use in bandages.

Morman et al. teach that it is well known in the art to have a polymer film of an elastic laminate comprising a thermoplastic polyolefin having a melt index of from 1 to 20 g/(10 min) and a density of from 860 to 900 kg/m<sup>3</sup> and includes a copolymer of ethylene and a C<sub>4</sub>-C<sub>10</sub>  $\alpha$ -

olefin (see col. 5, lines 43-60) for the purpose of providing the laminate with a soft outer cover and good elastic and breathability properties (see col. 3, lines 19-20).

Morman et al. and Murayama et al. are analogous, since both teach an elastic laminate which can be used for bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the laminate in Murayama et al. to have the textile sheet (non-woven fabric) macroembossed as well as the polymer film as suggested by Smith et al. in order to bond the film to the non-woven fabric to form the laminate for use in a bandage and provide a continuous pattern of embossing on the laminate. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the polyolefin film of the laminate in Murayama et al. to have a melt index of from 1 to 20 g/(10 min) and a density of from 860 to 900 kg/m<sup>3</sup> and to include a copolymer of ethylene and a C<sub>4</sub>-C<sub>10</sub>  $\alpha$ -olefin as suggested by Morman et al. in order to provide a laminate with a soft outer cover and having good elastic and breathability properties.

Regarding claim 43, note in Murayama et al. the polymer film comprises an outer layer and an inner tie layer, the inner tie layer being in direct contact with the second layer (see col. 2, lines 64-65).

Regarding claim 44, note in Murayama et al. that the inner and outer layers can be extruded (see col. 2, line 62). Furthermore, it is to be pointed out that the limitation "coextruded" in claim 44 is a method of production and the method of forming the product is not germane to the issue of patentability of the product itself. See MPEP 2113.

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16. Claims 42, 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 40 above, and further in view of Haffner et al. (US 6,045,900).

As shown above, Murayama et al., Smith et al. and Morman et al. teach the elastic laminate as claimed in claim 40. In regards to claims 45 and 46, Murayama et al. also teach the textile sheet having an area weight of from 25 to 200 g/m<sup>2</sup> and from 30 to 100 g/m<sup>2</sup> (see col. 2, lines 37-38).

However, Murayama et al. fail to teach the polymer film having an area weight of from 15 to 150 g/m<sup>2</sup> and from 35 to 60 g/m<sup>2</sup> and including at least 65% of a thermoplastic elastomer.

Haffner et al. teach that it is well known in the art to have a polymer film of an elastic laminate having an area weight of from 15 to 150 g/m<sup>2</sup> and from 35 to 60 g/m<sup>2</sup> (see col. 10, line 59-64) and including at least 65% of a thermoplastic elastomer (see col. 9, lines 5-7) for the purpose of providing a breathable barrier laminate which exhibits good breathability and barrier properties (see col. 2, lines 42-45).

Murayama et al. and Haffner et al. are analogous, since both teach an elastic laminate which can be used for bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the polymer film of the elastic laminate in Murayama et al. to have an area weight of from 15 to 150 g/m<sup>2</sup> and from 35 to 60 g/m<sup>2</sup> and include at least 65% of a thermoplastic elastomer as suggested by Haffner et al. in order to provide a breathable barrier laminate exhibiting good breathability and barrier properties.

17. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 40 above, and further in view of Feret (US 5,012,801).

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As shown above, Murayama et al., Smith et al. and Morman et al. teach the elastic laminate as claimed in claim 40. However, Murayama et al. also fail to disclose the polymer film being microembossed.

Feret teaches that it is well known in the art to microemboss the polymer film of a wound dressing (col. 3, lines 16-21) for the purpose of giving the visual appearance of a plain woven taffeta fabric (col. 3, lines 16-17) and enhance the conformability of the film on irregular surfaces and reduce the tendency of the film to curl or roll up in use and provide a reduced surface contact area (col. 2, lines 21-30).

Feret and Murayama et al. are analogous, since both teach bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the polymer film in Murayama et al. to be microembossed as suggested by Feret in order to give the visual appearance of a plain woven taffeta fabric and enhance the conformability of the film on irregular surfaces and reduce the tendency of the film to curl or roll up in use and provide a reduced surface contact area.

18. Claims 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 40 above, and further in view of Wu (US 5,422,172).

As shown above, Murayama et al., Smith et al. and Morman et al. teach the elastic laminate as claimed in claim 40. However, Murayama et al. also fail to disclose the laminate showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 50% of its original length and after elongation by 100% of its original length.

Wu teaches that it is well known in the art to have an elastic laminate showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 50% of its original length (see col. 11, lines 35-39 and see table 7) for the purpose of providing the laminate with new properties of stretchability and recoverability (see col. 2, lines 6-11).

Wu and Murayama et al. are analogous, since both teach an elastic laminate, which can be used in bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have the elastic laminate in Murayama et al. showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 50% of its original length as suggested by Wu in order to provide the laminate with new properties of stretchability and recoverability.

Furthermore, although Wu teaches a laminate showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 50% of its original length, Wu fails to teach the laminate showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 100% of its original length. However, the permanent deformation would be readily determined through routine experimentation by one having ordinary skill in the art depending on the desired end results. Thus, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have the elastic laminate in Murayama et al. showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 100% of its original length, since it has been held that where the general conditions of a claim are

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disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art in absence of showing unexpected results. *MPEP 2144.05 (II)*.

19. Claims 50, 51, 52 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murayama et al. (US 5,633,070) in view of Smith et al. (GB 2 186 233 A) and in view of Feret (US 5,012,801) and in view of Morman et al. (US 5,932,497).

Regarding claims 50, 52 and 54, Murayama et al. disclose an elastic laminate comprising a first layer of an elastic polymer film and a second layer of an elastic textile sheet, built from elastic fibers, and the second layer carries a self-adhesive coating on a side which is opposite to a side which faces the first layer (see col. 8, lines 1-9 and lines 30-34) and the polymer film comprises an inner tie layer and an outer layer, the inner layer being in direct contact with the second layer (see col. 2, lines 64-65).

However, Murayama et al. fail to disclose the textile sheet being macroembossed and the polymer film being microembossed and a macroembossed effect being transferred from the elastic textile sheet to the microembossed polymer film. Additionally, although Murayama et al. disclose the polymer film to include a thermoplastic polyolefin (see col. 2, lines 57-58), Murayama et al. fail to disclose the thermoplastic polyolefin having a melt index of from 1 to 20 g/(10 min) and a density of from 860 to 900 kg/m<sup>3</sup> and includes a copolymer of ethylene and a C<sub>4</sub>-C<sub>10</sub>  $\alpha$ -olefin.

Smith et al. teach that it is well known in the art to macroemboss (page 4, lines 58-64) a textile sheet (non-woven fabric) and a polymer film for the purpose of bonding the film to the non-woven fabric to form a laminate for use in a bandage and provide a continuous pattern of embossing on the laminate (page 1, lines 61-64 and page 2, lines 21-23 and page 51-64).

Smith et al. and Murayama et al. are analogous, since both teach a laminate including a non-woven fabric and a polymer film for use in bandages.

Feret teaches that it is well known in the art to microemboss the polymer film of a wound dressing (col. 3, lines 16-21) for the purpose of giving the visual appearance of a plain woven taffeta fabric (col. 3, lines 16-17) and enhance the conformability of the film on irregular surfaces and reduce the tendency of the film to curl or roll up in use and provide a reduced surface contact area (col. 2, lines 21-30).

Feret and Murayama et al. are analogous, since both teach bandages.

Morman et al. teach that it is well known in the art to have a polymer film of an elastic laminate comprising a thermoplastic polyolefin having a melt index of from 1 to 20 g/(10 min) and a density of from 860 to 900 kg/m<sup>3</sup> and includes a copolymer of ethylene and a C<sub>4</sub>-C<sub>10</sub>  $\alpha$ -olefin (see col. 5, lines 43-60) for the purpose of providing the laminate with a soft outer cover and good elastic and breathability properties (see col. 3, lines 19-20).

Morman et al. and Murayama et al. are analogous, since both teach an elastic laminate which can be used for bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the laminate in Murayama et al. to have the textile sheet (non-woven fabric) macroembossed as well as the polymer film as suggested by Smith et al. in order to bond the film to the non-woven fabric to form the laminate for use in a bandage and provide a continuous pattern of embossing on the laminate. Additionally, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the polymer film in Murayama et al. to be microembossed as suggested

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by Feret in order to give the visual appearance of a plain woven taffeta fabric and enhance the conformability of the film on irregular surfaces and reduce the tendency of the film to curl or roll up in use and provide a reduced surface contact area. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the inner and outer layers of the polyolefin film of the laminate in Murayama et al. to have a melt index of from 1 to 20 g/(10 min) and a density of from 860 to 900 kg/m<sup>3</sup> and to include a copolymer of ethylene and a C<sub>4</sub>-C<sub>10</sub>  $\alpha$ -olefin as suggested by Morman et al. in order to provide a laminate with a soft outer cover and having good elastic and breathability properties.

Regarding claim 51, note in Murayama et al. that the inner and outer layers can be extruded (see col. 2, line 62). Furthermore, it is to be pointed out that the limitation "coextruded" in claim 32 is a method of production and the method of forming the product is not germane to the issue of patentability of the product itself. See MPEP 2113.

20. Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 50 above, and further in view of Haffner et al. (US 6,045,900).

As shown above, Murayama et al., Smith et al., Feret and Morman et al. teach the elastic laminate as claimed in claim 50. However, Murayama et al. fail to teach the polymer film including at least 65% of a thermoplastic elastomer.

Haffner et al. teach that it is well known in the art to have a polymer film of an elastic laminate including at least 65% of a thermoplastic elastomer (see col. 9, lines 5-7) for the purpose of providing a breathable barrier laminate which exhibits good breathability and barrier properties (see col. 2, lines 42-45).



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Murayama et al. and Haffner et al. are analogous, since both teach an elastic laminate which can be used for bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the polymer film of the elastic laminate in Murayama et al. to include at least 65% of a thermoplastic elastomer as suggested by Haffner et al. in order to provide a breathable barrier laminate exhibiting good breathability and barrier properties.

21. Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 50 above, and further in view of Wu (US 5,422,172).

As shown above, Murayama et al., Smith et al., Feret and Morman et al. teach the elastic laminate as claimed in claim 50. However, Murayama et al. also fail to disclose the laminate showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 50% of its original length.

Wu teaches that it is well known in the art to have an elastic laminate showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 50% of its original length (see col. 11, lines 35-39 and see table 7) for the purpose of providing the laminate with new properties of stretchability and recoverability (see col. 2, lines 6-11).

Wu and Murayama et al. are analogous, since both teach an elastic laminate, which can be used in bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have the elastic laminate in Murayama et al. showing no more

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than 10% deformation in either the transverse direction or longitudinal direction after elongation by 50% of its original length as suggested by Wu in order to provide the laminate with new properties of stretchability and recoverability.

### ***Response to Arguments***

22. Applicant's arguments with respect to claims 30-36 and 38-55 have been considered but are moot in view of the new grounds of rejection, which are shown above.


### ***Conclusion***

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571) 272-1501. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Catherine A. Simone  
Examiner  
Art Unit 1772  
July 2, 2007

  
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